G. R. S. 59] GPB—15,000—20 12-13

GENERAL AND REVENUE SECRETARIAT.

1902.
(P Y 7) P. 29

File No. 1—02.

Serial Nos. 10 to 13.

~~Papers Filed.~~

Month ~~of~~ February 1903.

SUBJECT.

Memorial from prisoner Narayan against the orders passed by the Chief Court.

PREVIOUS REFERENCES.	LATER REFERENCES.
	Indexed. N. B. Thammanna. Countermarked

Memorial of prisoner sentenced to death.

1. Name of memorialist.. Narayani

2. No of case. Kolar Sessions case no 1 of 1902-03 and Criminal appeal no 56 Criminal Referred case no 4 of 1902-03 on the file of the Chief Court of Mysore.

SECTION P & J
FILE NO. 1-02
SR[illegible]

3. Court which tried it. Chief Court of Mysore (Sessions).

4. Nature of sentence originally passed and confirmed or altered in appeal. Sentenced to death by the Chief Court (Sessions) and this sentence was confirmed by the Chief Court (Appellate Bench).

5 Date of sentence. 25th August 1902

The memorialist is the 2nd accused in the Sessions case above referred to, the 1st accused being one Subrahmanya.

The facts of the case are as follows:-

On the night of the 3rd February 1902, one Kodanda Ramiah, a petty shop-keeper in His

the town of Chikballapur was left to sleep in his shop by his elder brother Rangayya, (11th witness for prosecution) at about 7 P.M. On the next morning the shop was found open, Kodandaramaiah was missing, the padlock of the shop door and its key lay on Kodandaramaiah's bed which ~~was~~ did not appear to have been slept on, the cupboards had been opened and about Rs 400 cash in notes and jewels worth in all about Rs 2000 carried away. No trace of the missing man was discovered until the evening of the 9th February when a corpse was found in a deserted house belonging to one Anderhalli Lingappa Ramiah, who had left the same on account of plague. One Subrahmania, the 1st accused

accused in 2 this case
had carried on petty
trade in partnership
with Lampange Ramiah
and he was therefore
sent for and questioned
at once. Next morning
an inquest and post
mortem were held on
the corpse. Some clothes
were found on the body
and a turban and 2
earrings near it. Two
of the ribs of the man
were found to have
been broken. The body
was decomposed beyond
recognition. On the
same day, a gold Sanga
(wristlet) and silver
buttons were discover-
-ed in the 1st accused's
house, and a coat and
pedda belonging to the
2nd accused (memorials)
were found in 1st accused's
shop. On the 12th February
the 1st accused Subrahmanya
made a detailed
confession before
the Mensiff-Magis-
-trate of Chickballapur
stating that he and
the

the 2nd accused (Memorialist)
induced
~~decoyed~~ the deceased Kodanda-
ramiah, to go to the
deserted house, where
they represented they
had brought a dancing
girl, and then murdered
him, and after murdering
him took, (some jewels ~~and~~ from his body &
his shop from his jani-
-vadi and then ~~broke~~
opened the shop and
stole the cash & jewels.
Kept there. He further
stated that the 2nd accused
gave him the wristlet
and the Silver buttons
above mentioned. He
adhered to his Confessional
statement before the
Committing Magistrate
but retracted the same
before the Sessions Court.
The 2nd accused (Narayan,
the present Memorialist)
who was sent to Chinta-
-mani by the Rangayya
(the 11th prosecution witness) ~~went~~ enquire for the deceased
on the 4th February abscond
-ed. He was, however,
arrested at Gottur
in the Dharmavaram
Taluk, Anantapur
Dt

Dt. He denied his Con-
-nection with the offence
from the commencement.
But it was proved that
~~he~~ shortly after the
murder, he absconded
from the place, sold
jewels belonging to
the deceased in distant
places such as Coimba-
-tore and Dharmavaram
and sent a large sum
of money (about Rs 400)
from Coimbatore to
Gooty although he
was a servant of
the 11th prosecution
witness, Rangayya,
getting Rs 4 per month.
The jewels sold by
him were produced before
the Sessions Court
and identified as his
by Rangiah (11th prosecu-
witness), the brother
of the murdered man.
The corpse was identi-
-fied as that of Kodanda
-ramiah by his brother
Rangiah, who also
identified

identified the ruby ear-
rings and the silver
mirchu on the toe of
the corpse.

On the above facts
the Sessions judge, agreeing
with the assessors con-
victed both the accused
persons and sentenced
them to death. The
High Court confirmed
the sentence of death
passed on the Memorialist
and commuted the sentence
of death passed on the
1st accused Subrahmania
to one of transporta-
tion for life, on the
ground that he has
been more or less
led into the crime
by the 2nd accused
(Memorialist) as the
1st accused is merely
a lad of 18 or 20 years
of age.

The 2nd accused is 25 years,
and both are stated in the appellate
Judgment to be "quite youngmen."

The Memorialist
now states that
the appellate
Court has con-
victed him on
the

the confession of the 1st accused, which was extorted by the Police; that the mere fact even if true, of finding jewels belonging to the deceased in his (the memorialists') possession, is insufficient to prove that he took any part in the murder and that there is nothing to show that his guilt was greater than that of the 1st accused whose sentence of death has been commuted to one of transportation for life. He prays that the sentence of death passed on him may be set aside.

Submitted

24/12/02

24/12/02.

Subd to the Dewan through the 2nd Councillor

24/12/02

1-1-03 Hamp. Bellew

X X

This is a clear case - There are no extenuating circumstances - The Chief Court has, I think, rightly held that the memorialist

8

was the greater culprit of the two. It is true that the evidence against the Memorialist is mostly circumstantial but it is clear that, none the less it is conclusive. There are no grounds for interference & I submit that the Memorial may accordingly be rejected.

6/1/09

The Dewan

7/1

RD Sethi
9.1.93
7794

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Submitted with Highness -

The memorialist has been convicted of murder & sentenced to death - The Sessions Court (a Judge of the Chief Court) tried the prisoner and the conviction and sentence by him were upheld by a Bench of the Chief Court consisting of the Chief Judge and Mr Justice Meikle.

The motive was theft - and the deceased who was stabbed in his brother's shop was induced to go to another house - and there murdered by the memorialist & another. Judgments recorded by both the Courts enter into facts & discuss the evidence which they found appears conclusive - The sentence is quite proper - Under the circumstances there do not appear to be any grounds for interference and I recommend that the memorial may be rejected.

1.2.03

10

Record of Case submitted for the orders of His Highness the Maharaja.

Subject.

30
Memorial of Narayani, prisoner in Kolar Sessions Case No 1 of 1902 3, praying that the sentence of death passed upon him, may be set aside —

Order.

I see no reason for interference

KRM
6/2/03

Order accordingly
6.II.03

8/2 Read
7/2/03
CPM

Draft & Fair Subd.
9/2/03 7/2/03

(General Serial No. 30.)

6964. ~~189~~ 1902-03

From: The Registrar of the Chief Court, Jeypore

To The Secretary to the Govt of Jeypore

SECTION P.J.

FILE No. 1-02

SERIAL No. 10

Dated 18/12/02

Despatched

Received

Enclosures No. two & Record

General No. 3786

No. 134

Forwards a memorial addressed to H.H. the Maharajah of Jeypore by Narayani 2d accused in Kolar Sessions case No. 1 of 1902-03 and 2d Appellant in Cr. A. No. 56 / Cr. Rf. court No. 4 of 1902-03 on the file of this Court

Submitted

22/12

N 3786 No: 2
134
and Record

Bangalore 18th December 1902

From,

J. Clapham Esq.,
Acting Registrar, Chief Court of Mysore

To.

H. V. Nanjundayya Esq., M.A., M.L.,
Secretary to Government,
General and Revenue Departments

Sir,

I am directed to forward a Memorial addressed to His Highness the MahaRajah of Mysore by Narayani, 2nd accused in Kolar Sessions Case No: 1 of 1902-3 and 2nd appellant in Criminal appeal No: 56 / Criminal Referred Case No: 4 of 1902-3 on the file of this Court.

2. The Superintendent, Central Jail, Bangalore, through whom the Memorial was received, has been directed to suspend the sentence of death passed on the Memorialist pending

3

pending disposal of his memorial.

3. The entire record of the case is herewith forwarded.

I have the honor to be,
Sir,
Your most obedient Servant,

ag: Registrar

To. 24

Encl to sl 10

His Highness Sree Krishna
Raja Wodeyar Bahadur
Maharaja of Mysore.

The Humble Memorial of
Prisoner Narayani condemned
to be hanged in Kolar Sessions
Case No. 1 of 1902—03 for the
Murder of Kodanda Ramiah
of Chikballapur.

Respectfully Sheweth:—

(1) That the appellate Court
has convicted your Memorialist
and Sentenced him to death
on the confession of 1st accused
which was extorted by the Police
and which does not establish
the fact that your Memorialist
was present and aided and
abetted the murder of Kodandiah.

(2) That the mere fact even if true of finding jewels belonging to the deceased in your Memorialists' possession is insufficient to prove that he took any part in the murder,

(3) That there is nothing to show that your memorialist led 1st accused to commit the murder or that he took any active part in it, or that his guilt was greater than that of 1st accused whose sentence of death has been commuted to transportation for life.

(4) That your memorialist is quite a young and ignorant and illiterate man and as is well known, the Police are adepts at concocting evidence and extorting confessions

&c

so as to hood-wink the highest Courts in the land, and that it is extremely rare for any accused person to make a voluntary Confession of murder on which his conviction almost entirely proceeds.

Your Memorialist therefore prays Your Highness to exercise your Prerogative of mercy and remit the Sentence of death passed on him. And Your Memorialist

17th December 1902.

A.

7

Cri to S/10

In the Chief Court of Mysore at Bangalore.

Wednesday the 26th day of November 1902

Present

Mr. justice A. Ramachandra Iyar, Chief judge

and

Mr. justice E. F. Meekleyohn, judge

Petition of criminal Appeal

- Criminal Reference

case No. 56/4 of 1902-03, against the conviction and sentence by Mr. justice A. Rangaswamiengar, judge of this Court, under section 302, Indian Penal Code, in - Kolar Sessions case No. 1 of 1902-03

Appellants

1. Subramanya
2. Nara - - yani (accused)

judgment

The Appellants were convicted by the judge of the Chief Court in Kolar Sessions case No. 1 of having murdered one

Kodanda

Kodanda Ramiah, an offence punishable under section 302 I.P.C, and were sentenced to death.

The 1st appellant Subramanya appeals on the ground that he has been convicted on his uncorroborated confessional statement, which was extorted from him by the Police but was retracted before the Sessions Court and that the corpse found has not been identified as the body of Kodanda Ramiah. The 2nd appellant Narayana appeals on the grounds that there is no evidence to show that the 2nd accused was present at the death of Kodanda Ramiah or murdered him or aided and abetted in murdering him, that the Sessions Court has convicted him of murder on the assumption that as he sold jewels alleged to have belonged to Kodanda Ramiah, he must have murdered him but that it has not been satisfactorily proved that

the

the jewels alleged to have been stolen be-
longed to Kodanda Ramiah and that
the sessions court erred in convicting
him on the uncorroborated confession of
1st accused -

The first point to be considered
is: whether the body discovered in the
deserted house has been satisfactorily
identified as the corpse of Kodanda Ramiah

The evidence of the 11th prosecution -
witness the brother of the deceased, the 10th
witness the jemadar, the 12th witness a
shop keeper, who was the deceased's neigh-
bour, satisfactorily proves the body found
in the deserted house to have been that
of Kodanda Ramiah -

The second point to be considered
is: whether the confessional statement has
been voluntarily made or under police -
pressure and torture -

The counsel for the appellant
contends that the evidence of the jemadar

10th

10th prosecution witness (who deposes that the accused was kept under surveillance at the Police Station from about 7 o'clock on the evening of the 9th February until that it was not till 12 o'clock at night that he said he would point out the properties having until then denied all knowledge of them) corroborates the prisoner's statement given before the Sessions Court that he was made to confess under torture and that he was told what to say and said it before the Municipal Magistrate and adhered to it before the committing magistrate because he was led to believe that he would be made an approver.

The 1st prisoner has made three statements, one (Exhibit X) before the Municipal on the 12th February, one before the committing magistrate (Exhibit Y) on the 19th June and one before the Sessions Court on the 22nd August. In the last he retracts his former statements.

We

We do not see much in the argument that because the jemadar admits that the accused did not make a statement to the Police till about 12 o'clock i.e. some four hours after he had been taken to the station that is why that he made the statements because he was frightened must be true. The prisoner would naturally deny all knowledge of anything when first taken up but might think it wiser without any pressure at all on finding himself detained after some reflection to say everything he knew. At all events it cannot be said that he had not had ample time in this case to recover himself and to appeal to the Magistrate if he thinks been threatened for protection He made the confessional statement which is the chief evidence against him before a Magistrate who was quite unconnected with the Police, three days after his arrest again had he made his first confession;

under

under promise of being made an approver it is not conceivable that he would have remained for three months in the lock up without thoroughly ascertaining all about his chances of escape, as an approver and as to who could make him one: As to his being still in custody of the Police in jail, the Public Prosecutor assures us that the Jailing lock ups are not in charge of the Police but of the Hospital Assistants.

Again the confessional statement is corroborated by the 1st accused having the murdered man's wrist ornament in his house and by his kurkan being found near the body. We cannot believe the prisoners story that the Jemadar had wrinkled the Amildar, Panchayetdars and his own Inspector by putting the ornament there at the time of the search or that the Police deliberately got a animal belonging to the accused and placed it beside the body even before the Panchayet

was

was held. The confessional statement is also corroborated by the 2nd accused's conduct and by the evidence in exhibit O which proves that a petty shopkeeper saw the accused together and spoke to them at his shop on the night the crime was stated by the 1st accused to have taken place, that they were without their turbans and in such a state of excitement that he was induced to question them as to what was the matter. The evidence of the 4th witness for the Crown and of the 5th witness though not aimed in itself certainly goes towards corroborating the first prisoner's confession in some details. It seems to us highly improbable that they are got up witnesses by the police as alleged by the defence for surely had the police been able or desirous by establishing their case by false evidence they would have had stronger facts shown

One

We cannot believe that sweet meat sellers, silk dealers and petty shop keepers, all have joined the police in an elaborate conspiracy against the first accused. There are matters to the case of the 2nd accused also to be considered. We do not see how his innocence is possible in the face of the facts proved against him. It is proved that he absconded abruptly after the crime was committed, it is proved by his own letter (Exhibit A) that he attempted to lead the 11th witness to believe that he had gone to Pondicherry while he had not gone there, and that he gave a false excuse for going away namely that there was a warrant taken out against him while there was no such warrant. It is proved that he was only a servant on Rs four a month yet he suddenly becomes possessed of Rs 400, which he can only account for by saying that he saved it out of his earnings! It is proved beyond a doubt to have been in possession of

jewels

jewels stolen from the deceased's house but cannot account for their possession save by denying all knowledge of them, for instance the evidence of his own witness Jarrett, of the prosecution witness Clearly proves (to take two articles only) that he was in possession of the stolen property. They are identified by the 11th witness whose evidence is corroborated by the 21st witness for the prosecution.

The appellants are quite young men of 20 and 25 years of age. They had been fellow servants, village neighbours and were great friends. The elder of the two seems from the evidence to have proposed this scheme of murder and house breaking and the younger man to have consented to join with it. After the murder the first accused

nerve

never must have failed him, as the body would seem to have been secured by the accused alone, by means of the knife obtained from the murdered man's body. There is no real ground for difference from the opinion of the Sessions Court, and the assessors in their finding that the accused have murdered Kodandia Ra-
miah. [illegible]

We are of opinion, however, that [illegible] the ends of justice will be sufficiently met if we confirm the sentence of death passed on the second accused and [illegible] and commute the sentence of death on the 1st accused Subramaniya [illegible] of transportation for life, on the ground that he has been more or less led into the crime by

the

the 2nd accused as the first accused is only a lad of 18 or 20 years of age.

A true Copy

Sd/- Registrar

16

OFFICE OF THE GOVERNMENT OF MYSORE.

Dated Bangalore, 12/12/1902

The ~~General Secretary~~ to the Government of Mysore.

The Registrar of the Chief Court of Mysore.

SECTION P&C
FILE No. 1-09
SERIAL No. 13

Sir,

I am directed to forward herewith for information of the Judges of the Chief Court and for communication to the prisoner Narayana undergoing sentence of death in the Bangalore Central Jail, copy of order passed by H. H. the Maharaja ~~Regent~~ of Mysore, on the prisoner's memorial rejecting the same

2. The entire records received with your letter No. 3786/134 dated 18/12/1902 are herewith returned.

12/12/02

I have the honor to be
Sir,
Your most obedient servant,

~~General Secretary~~

I give the petitioner a free pardon subject to the condition that he will leave the Mysore territories and not return to them during his life time.

Exhibit D 17

In the Matter of a Memorial of Narayani, prisoner in Kolar Sessions case No 10 of 1902-03 and in Criminal Appeal case No 56 Criminal Referred case No 4 of 1902-03 on the file of the Chief Court of Mysore, praying that the sentence of death passed upon him may be set aside.

His Highness the Maharaja

has been pleased to pass the following

Order.

"I see no reasons for interference".

Dewan of Mysore

Draft
9/2/03

8283
9.2.03.